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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/648,369	08/27/2003	Yasumi Matsuno	P23835	3704
7055	7590	10/18/2006	EXAMINER	
GREENBLUM & BERNSTEIN, P.L.C. 1950 ROLAND CLARKE PLACE RESTON, VA 20191			YOO, JASSON H	
			ART UNIT	PAPER NUMBER
			3714	

DATE MAILED: 10/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/648,369

Applicant(s)

MATSUNO ET AL.

Examiner

Jasson Yoo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>1/5/05, 12/3/03</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

Claim 7 is objected to because of the following informalities: "comrping" in line 9 should be --comprising--. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 2-11 recites the limitation "The video game apparatus". There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 21-22 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The claims are rejected because a carrier wave having a data signal is directed towards a physical phenomenon and is not directed towards a process, machine, manufacture, composition of matter, or any useful improvement thereof.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1-6, 8, 10-22 are rejected under 35 U.S.C. 102(a) as being anticipated by Grand Theft Auto III (October 2001) (hereinafter "GTA3").

The following documents describe the video game of GTA3:

Grand Theft Auto III – Wikipedia, the free encyclopedia (hereinafter "Wiki-GTA3"). Retrieved from the Internet: http://en.wikipedia.org/wiki/Grand_Theft_Auto_III

Monsters At Play: Grand Theft Auto III Review. Reviewed by Michael Johnson (hereinafter "MAP-GTA3"). Retrieved from the Internet: http://games.monstersatplay.com/review/playstation2/grand_theft_auto_3.php

GameSpot: Grand Theft Auto III. By Jeff Gerstmann (hereinafter "GS-GTA3").

Retrieved from the Internet:

<http://www.gamerankings.com/itemrankings/launchreview.asp?reviewid=241528>

Grand Theft Auto III game manual for PlayStation 2 (hereinafter "GTA3 manual").

GTA3 is a video game released on October 2001, and can be played in multiple game consoles (Wiki-GTA3, page 1, paragraph 1). GTA 3 has a linear set of storyline-based missions as well as side missions, which provides the player a degree of freedom with the characters involvement in the game plot as well as the game environment (Wiki-GTA3, page 4, paragraph 6; GS-GTA3, page 1, paragraph 3 – page 2, paragraph 1). In the game of GTA3, the rules are governed and changed by the game progress, or by the game mission and game environment. For example, certain cars the player pick up provide side missions such as transporting characters with a taxi, picking up injured character with an ambulance, fire fighting and police missions (Wiki-GTA3, page 4, paragraph 6; GS-GTA3, page 2, paragraphs 2-4). As the game progresses, the game environment changes with new missions and by unlocking new areas (Wiki-GTA3, page 3, paragraph 8). The game progress or the character's involvement in the game environment will affect his view in the "eyes" of game members and enemy gangs (Wiki-GTA3, page 4, paragraphs 1-2) as well as the cops (GS-GTA3, page 2, paragraphs 3-4). As new areas open up, access to other, previously accessible areas become more dangerous or less accessible (Wiki-GTA3, page 4, paragraph 1).

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Therefore the player must adapted to the new rules created by the changed environment, by being cautious and avoiding dangerous and hostile areas (Wiki-GTA3, page 4, paragraphs 1-2; GS-GTA3, page 2, paragraphs 2-4). If the player violates the rules, the player's health, armor, weapons, money, car, or car's health is penalized (Wiki-GTA3, page 3, paragraph 8; GS-GTA3, page 2, paragraphs 2-4; MAP-GTA3, page 2, paragraph 4; page 3, paragraph 3).

GTA3 further discloses the following:

1, 12-13, 15-16, 18-22. A game apparatus (PlayStation 2, GTA3 manual, page 3) that advances a game according to a player's instruction. There is a progress degree detector that detects a degree of a game progress. The program keeps track of where the player character is and what the character is doing. This is detecting the degree of progress in the game. As discussed above, the rules change based on advancement of the game and violation of the rules is penalized. This implies that there is a rule judge that determines a rule applicable when a player advances the game according to the degree of the detected game progress. The gaming controller is an instruction input device that inputs a desired instruction of the player to advance the game. As discussed above, the player's health, body armor, weapons, money, car, or car's health is penalized (Wiki-GTA3, page 3, paragraph 8; GS-GTA3, page 2, paragraphs 2-4; MAP-GTA3, page 2, paragraph 4; page 3, paragraph 3) if he violates the rules. Therefore, there must be a rule violation determiner that determines whether a violation of the determined rule occurs based on the input instruction; and a penalty processor

that imposes a predetermined penalty when said rule violation determiner determines that the violation occurs.

2. The video game apparatus according to claim 1, wherein said rule violation determiner further comprises a device that determines whether the input instruction is against the determined rule. The player can control the character with the controller shown in GTA3 manual, page 4. As noted above, when the rules are violated due to a character's action, the player is penalized. In order to carry out this function, the game must have a rule violation determiner.

3, 14. GTA3 teaches an instruction executer (i.e., a computer) that executes processing according to the input instruction (made by the player via the game controller). The rule violation determiner must include a device (i.e., program code) that determines whether a processing result of the instruction executer based on the input instruction is against the determined rule. As noted above, when the rules are violated due to a character's action, the player is penalized. In order to carry out this function, the rule violation determiner must determine whether a processing result of the instruction executer based on the input instruction (i.e., the action of the character) is against the determined rule.

4, 11, 17. The video game apparatus according to claim 1, wherein the rule applicable when the game advances is divided into multiple groups. The character in

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GTA3 is defined by many character attributes, which can be divided into groups. These attributes can be obtained and modified through the course of the player's action. One group of character attributes is defined by the character's interaction with the police (MAP-GTA3, page 2, paragraphs 2-3), and is visually measured by stars (GS-GTA3, page 2, paragraphs 3; see screenshot in Wiki-GTA3, page 3). Other examples of groups are character's health, wealth, weapons, wealth, status in a gang, character involvement with other characters, side missions. The rule judge determines a rule that belongs to a group corresponding to the degree of detected game progress as the rule applicable when the game advances. Each group of the character attributes is affected by the player's action throughout the game. The character's health, body armor, weapons, money, vehicle, or vehicle's health is penalized (Wiki-GTA3, page 3, paragraph 8; GS-GTA3, page 2, paragraphs 2-4; MAP-GTA3, page 2, paragraph 4, page 3, paragraph 3). Based on the environment and the player's action, the player is penalized in various degrees (certain cars are damaged more easily than others, and the player can lose a small health status or his life, MAP-GTA3, page 2, paragraph 4 - page 3, paragraph 1, and page 3, paragraph 3).

5. The video game apparatus according to claim 1, wherein the number of rules applicable when the game advances is two or more, and said rule judge increase the number of rules applicable when the game advances. As noted above, the rule judge increases to affect the character attributes as the game progresses with changes in the

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character's environment. For example, the player must drive the car without any accidents or the car will be damaged or explode (MAP-GTA3, page 2, paragraph 4). The player must also avoid being hit by a tank or the player will instantly die (MAP-GTA3, page 3, paragraph 3).

6. The video game apparatus according to claim 1, wherein said instruction input device inputs an instruction to operate a player character (the game controller is used to operate a player character), and said video game apparatus further comprises a characteristic value storage that stores a characteristic value of the player character that varies in accordance with the degree of the game progress and exerts an influence on the game progress (the player's interaction with the police, gangs, other characters, missions, and the character's environment influences the game progress), and said penalty processor varies the stored characteristic value of the player character. (Player's health, wealth, and character items are penalized, MAP-GTA3, page 3, paragraph 3).

8. The video game apparatus according to claim 1, wherein said instruction input device inputs a type of operation executed by the player character, which can perform multiple kinds of operations (The player can enter/exit cars, shoot, accelerate/sprint, brake/jump, etc. to control the character, GTA3 manual, page 4), and said penalty processor limits the types of operations that can be executed by the player character to impose said penalty (If the character is penalized by having his weapon taken away, the

character is incapable of using that particular weapon. If a vehicle is taken away, the character is limited from driving the vehicle. MAP-GTA3, page 2, paragraph 4; page 3, paragraph 3).

10. The video game apparatus according to claim 1, further comprising an item storage that stores items given to the player according to the game progress, wherein said penalty processor deletes a predetermined item stored in said item storage to impose said penalty. The player can store items such as vehicles, and vehicle's health status and weapons (MAP-GTA3, page 2, paragraph 4 - page 3, paragraph 1; page 3, paragraph 4 - page 4, paragraph 1), weapons (Wiki-GTA3, page 4, paragraph 7 – page 5, paragraph 2), health status and money (MAP-GTA3, page 3, paragraph 3).

Claim Rejections - 35 USC § 103

Claims 7 and 9 rejected under 35 U.S.C. 102(a) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over GTA3.

GTA3 discloses a video game apparatus imposing a predetermined penalty on the player character if the player violates the rule. However, GTA3 does not specifically teach the video game apparatus provide multiple player characters. Nevertheless, it is well known in the art to incorporate multiplayer capabilities into a single player game. A multi-player game allows multiple players to interact with each other through the game, and thus provide a more enjoyable game play. Multi-player games allow players to compete as well as play along in teams with each other. Furthermore, Wiki-GTA3, page

4, paragraph 3 further discloses a multiplayer mode for GTA3, enabling players to play GTA3 online against each other. Therefore it would have been obvious in one of ordinary skilled in the art at the time the invention was made to modify GTA3 and incorporate multiplayer modes, in order to provide an interactive game with multiple players.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The Unofficial Official Rules of Calvinball teaches a game where as the game progresses, the rules are changed.

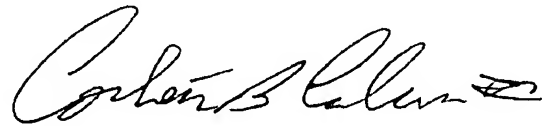
US 4,270,755 teach a strategy based electronic game, with various difficulty level settings. The number of rules to play the game increases with the increased level settings.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jasson Yoo whose telephone number is (571)272-5563. The examiner can normally be reached on 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Olszewski Robert can be reached on (571)272-6788. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JHY

A handwritten signature in black ink, appearing to read "Corbett B. Coburn" with a stylized flourish at the end.

**CORBETT B. COBURN
PRIMARY EXAMINER**